

**BEFORE THE  
BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. D2-1997-40

RONALD PAUL KONKLE  
530 Merchant Street  
Vacaville, CA 95688

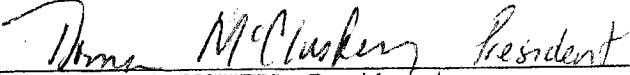
Certified Public Accountant No. 56833  
Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy of the Department of Consumer Affairs as its Decision in the above entitled matter.

This Decision shall become effective on September 1st, 2001.

It is so ORDERED August 2nd, 2001.

  
\_\_\_\_\_  
DONNA McCLUSKEY, President  
FOR THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JEANNE C. WERNER, State Bar No. 93170  
Deputy Attorney General  
3 California Department of Justice  
1515 Clay Street, 21st Floor  
4 Oakland, California 94612  
Telephone: (510) 622-2226  
5 Facsimile: (510) 622-2121

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **BOARD OF ACCOUNTANCY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to  
12 Revoke Probation Against:

13 RONALD PAUL KONKLE  
14 530 Merchant Street  
Vacaville, CA 95688

15 Certified Public Accountant No. 56833

16 Respondent.

Case No. D2-1997-40

OAH No. \_\_\_\_\_

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Complainant Carol Sigmann is the Executive Officer of the Board of  
22 Accountancy. She brought this action solely in her official capacity and is represented in this  
23 matter by Bill Lockyer, Attorney General of the State of California, by Jeanne C. Werner,  
24 Deputy Attorney General.

25 2. Respondent Ronald Paul Konkle ("Respondent") is represented in this  
26 proceeding by attorney David C. Anton, whose address is 817 Colby Drive, Davis, CA 95616.

27 3. On or about December 7, 1963, the Board of Accountancy issued Certified  
28 Public Accountant Number 10600 to Ronald Paul Konkle ("Respondent"). The certificate

DCA 

1 expired on February 1, 1984, and was canceled on February 1, 1989 (Bus. & Prof. Code 5070.7).  
2 The certificate which is subject to discipline in this proceeding, Certified Public Accountant  
3 Number 56833, was issued to Ronald Paul KONKLE ("Respondent") on September 7, 1990.  
4 The certificate was disciplined in Accusation No. AC-92-36 in the Board's Decision effective  
5 November 17, 1993, placing the certificate on probation subject to specific terms and conditions.  
6 The certificate was expired between February 1, 1994 and May 29, 1994. Once renewed, it was  
7 revoked for probation violations by the Board's Decision in Case No. D1-92-36, effective May  
8 25, 1995, pursuant to a Petition to Revoke Probation. The revoked certificate was reinstated, on  
9 probation, effective June 19, 1997, pursuant to the Board's Decision in Case No. SI-97-40-1,  
10 and is renewed through January 31, 2002.

#### 11 JURISDICTION

12 4. Accusation and Petition to Revoke Probation No. D2-1997-40 was filed  
13 before the Board of Accountancy of the Department of Consumer Affairs ("Board"), and is  
14 currently pending against Respondent. The filing of the Accusation and Petition extended  
15 (indefinitely) the Respondent's probation, pending the resolution of said Accusation and Petition.  
16 The Accusation and Petition to Revoke Probation, together with all other statutorily required  
17 documents, was duly served on Respondent on June 7, 2000, and Respondent timely filed his  
18 Notice of Defense contesting the Accusation and Petition to Revoke Probation, a copy of which  
19 is attached as Exhibit A and incorporated herein by reference.

#### 20 ADVISEMENT AND WAIVERS

21 5. Respondent has carefully read and discussed with his counsel the nature of  
22 the charges and allegations in the Accusation and Petition to Revoke Probation (hereinafter  
23 "Accusation") and the effects of this Stipulated Settlement and Disciplinary Order.

24 6. Respondent is fully aware of his legal rights in this matter, including the  
25 right to a hearing on the charges and allegations in the Accusation, the right to be represented by  
26 counsel, at his own expense, the right to confront and cross-examine the witnesses against him,  
27 the right to present evidence and to testify on his own behalf, the right to the issuance of  
28 subpoenas to compel the attendance of witnesses and the production of documents, the right to

1 reconsideration and court review of an adverse decision, and all other rights accorded by the  
2 California Administrative Procedure Act and other applicable laws.

3 7. Respondent voluntarily, knowingly and intelligently waives and gives up  
4 each and every right set forth above.

5 CULPABILITY

6 8. Respondent understands that the charges and allegations in the  
7 Accusation, if proven at a hearing, constitute cause for revoking the stay order previously in  
8 effect and imposing discipline upon his Certified Public Accountant certificate.

9 9. Respondent admits that he was grossly negligent in the performance of the  
10 three engagements referenced in Accusation and Petition to Revoke Probation No. D2-1997-40.

11 10. Respondent agrees that his Certified Public Accountant certificate is  
12 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set  
13 forth in the Order below.

14 CONTINGENCY

15 11. This stipulation shall be subject to the approval of the Board. Respondent  
16 understands and agrees that Board of Accountancy's staff and counsel for Complainant may  
17 communicate directly with the Board regarding this stipulation and settlement, without notice to  
18 or participation by Respondent or his counsel. If the Board fails to adopt this stipulation as its  
19 Order, except for this paragraph the Stipulated Settlement and Disciplinary Order shall be of no  
20 force or effect, it shall be inadmissible in any legal action between the parties, and the Board  
21 shall not be disqualified from further action by having considered this matter.

22 12. The parties agree that facsimile copies of this Stipulated Settlement and  
23 Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as  
24 the original Stipulated Settlement and Disciplinary Order and signatures.

25 13. In consideration of the foregoing admissions and stipulations, the parties  
26 agree that the Board shall, without further notice or formal proceeding, issue and enter the  
27 following Disciplinary Order:  
28

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Certified Public Accountant Number 56833 issued to Respondent Ronald Paul KONKLE is revoked. However, the revocation is stayed, respondent retains his right to practice as a CPA with the limitations set forth herein, and, further, respondent's certificate is placed on probation for one year on the following terms and conditions:

**1. Restricted Practice - Audits, Reviews, Compilations and Other Attest Work**

Respondent shall be prohibited from performing audits, reviews, compilations and other attest engagements for a period of at least one year from the effective date of this order. This condition is independent of respondent's right to otherwise practice under the probationary conditions imposed hereinafter.

Respondent may resume providing attest services after one year from the effective date of this decision only when the following conditions are met:

- a. He shall take and pass the audit section of the CPA examination prior to his resumption of such professional services; and
- b. He shall notify the Chief of Enforcement of his intention to resume performing attest engagements. Prior to accepting such engagements, he shall submit, for prior approval, the name of another CPA or PA who shall review his first three attest engagements for compliance with professional standards prior to the completion of the engagement. The monitoring CPA or PA shall report on his or her review of the engagements to the Chief of Enforcement. Respondent shall pay all costs for monitoring by a CPA or PA. The engagements may be independently reviewed by Board staff. In the event none of respondent's first three attest engagements is an audit, respondent shall also have the first audit he performs monitored. If respondent's performance is acceptable, the limitation on attest work shall be terminated and he will be notified in writing to that effect.
- c. Respondent's failure to take or to pass the audit portion of the CPA exam as set forth in 1.a. above shall have no adverse effect on his ability to practice under his CPA

1 certificate, provided he continues to meet all other requirements for active practice,  
2 including compliance with the probationary conditions set forth herein.

3 **2. Probationary Period**

4 A new probationary period of one year is imposed from the effective date of this Decision and  
5 Order (terminating respondent's previous probation). During the probationary period,  
6 Respondent shall be subject to terms and conditions numbers 3 through 9 immediately following  
7 in this order.

8 **3. Obey All Laws**

9 Respondent shall obey all federal, California, other states' and local laws, including those rules  
10 relating to the practice of public accountancy in California.

11 **4. Submit Written Reports**

12 Respondent shall submit, within 10 days of completion of the quarter, written reports to the  
13 Board on a form obtained from the Board. The respondent shall submit, under penalty of  
14 perjury, such other written reports, declarations, and verification of actions as are required.  
15 These declarations shall contain statements relative to respondent's compliance with all the terms  
16 and conditions of probation. Respondent shall immediately execute all release of information  
17 forms as may be required by the Board or its representatives.

18 **5. Personal Appearances**

19 Respondent shall, during the period of probation, appear in person at interviews/meetings as  
20 directed by the Board or its designated representatives, provided such notification is  
21 accomplished in a timely manner.

22 **6. Cost Reimbursement**

23 Respondent shall reimburse the Board \$ 1000.00 <sup>few</sup> for its investigation and prosecution costs.  
24 The payment shall be made prior to the completion of the one-year probation, and payment is a  
25 prerequisite for successful completion of probation. Respondent agrees that the Board may file a  
26 Petition to Revoke Probation if payment is not made, regardless of whether the Petition is filed  
27 after the date on which probation would have otherwise terminated.

28 ///

1           **7. Practice Investigation**

2 Respondent shall be subject to, and shall permit, a practice investigation of the respondent's  
3 professional practice. Such a practice investigation shall be conducted by representatives of the  
4 Board, provided notification of such review is accomplished in a timely manner. There shall be  
5 no notice requirement for purposes of monitoring compliance on restrictions on Respondent's  
6 practice.

7           **8. Comply With Citations**

8 Respondent shall comply with all final orders resulting from citations issued by the Board of  
9 Accountancy.

10          **9. Tolling of Probation For Out-of-State Residence/Practice**

11 In the event respondent should leave California to reside or practice outside this state, respondent  
12 must notify the Board in writing of the dates of departure and return. Periods of non-California  
13 residency or practice outside the state shall not apply to reduction of the probationary period, or  
14 of any suspension. No obligation imposed herein, including requirements to file written reports,  
15 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise  
16 affected by such periods of out-of-state residency or practice except at the written direction of the  
17 Board.

18          **10. Completion of Probation**

19 Upon successful completion of probation, respondent's license will be restored, subject to the  
20 restriction on his performance of attest work set forth in paragraph 1 of this Disciplinary Order  
21 (which restriction may be terminated only upon compliance with the requirements set forth in  
22 that paragraph).

23          **11. Comply With Board's Order, Including Probation**

24 Respondent shall fully comply with both the restriction on his practice and with the terms and  
25 conditions of the probation imposed by the Board and shall cooperate fully with representatives  
26 of the Board of Accountancy in its monitoring and investigation of the respondent's compliance.

27          **12. Violation of Order**

28 If respondent violates this order in any respect, the Board, after giving respondent notice and an

1 opportunity to be heard, may revoke probation and carry out the disciplinary order that was  
2 stayed. If an accusation or a petition to revoke probation is filed against respondent during  
3 probation, the Board shall have continuing jurisdiction until the matter is final, and the period of  
4 probation shall be extended until the matter is final.

5 ACCEPTANCE

6 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
7 have fully discussed the terms and conditions and other matters contained therein with my  
8 attorney David C. Anton, I understand the effect this stipulation will have on my Certified Public  
9 Accountant. I enter into this Stipulated Settlement voluntarily, knowingly and intelligently and  
10 agree to be bound by the Disciplinary Order and Decision of the Board of Accountancy. I further  
11 agree that a facsimile copy of this Stipulated Settlement and Disciplinary Order, including  
12 facsimile copies of signatures, may be used with the same force and effect as the originals.

13 DATED: May 7, 2001

14  
15   
16 RONALD PAUL KONKLE  
17 Respondent

18 I have read and fully discussed with Respondent Ronald Paul KONKLE the terms  
19 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
20 Order. I approve its form and content.

21 DATED: May 7, 2001

22  
23   
24 DAVID C. ANTON  
25 Attorney for Respondent

26 ENDORSEMENT

27 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
28



1  
2 submitted for consideration by the Board of Accountancy of the Department of Consumer  
3 Affairs.

4 DATED: May 9, 2001.

5 BILL LOCKYER, Attorney General  
6 of the State of California

7 Jeanne C. Werner  
8 JEANNE C. WERNER  
9 Deputy Attorney General

Attorneys for Complainant

10 DOJ Docket Number: 03541110-SF2000AD0630  
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**Exhibit A:**

**Petition to Revoke Probation Case No. D2-1997-40**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 CHRISTIANA TIEDEMANN,  
Deputy Attorney General  
3 State Bar No. 105299  
California Department of Justice  
4 1515 Clay Street, 20<sup>th</sup> Floor  
Oakland, CA 94612  
5 Telephone: (510) 622-2218  
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6

7 Attorneys for Complainant  
8

9 **BEFORE THE**  
10 **BOARD OF ACCOUNTANCY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke  
Probation and Accusation Against

Case No.: D2-1997-40

13 RONALD PAUL KONKLE  
14 530 Merchant Street  
Vacaville, CA 95688

**PETITION TO REVOKE  
PROBATION AND ACCUSATION**

15 Certified Public Accountant  
16 License No. 56833  
17

18 CAROL SIGMANN alleges:

- 19 1. Complainant, Carol Sigmann, is the Executive Officer of the California Board  
20 of Accountancy (hereafter the "Board") and brings this Petition to Revoke Probation and  
21 Accusation solely in her official capacity.

22 **LICENSE AND DISCIPLINARY HISTORY**

- 23 2. On December 7, 1963, respondent, Ronald Paul Konkle was issued Certified Public  
24 Accountant Certificate No. 10600 by the Board. The certificate expired on February 1,  
25 1984, and was canceled on February 1, 1989, pursuant to Business and Professions Code  
26 section 5070.7.
- 27 3. On September 7, 1990, respondent was issued Certified Public Accountant Certificate  
28 No. 56833 by the Board. This license was disciplined by the Board in disciplinary case

No. AC-92-36 in its Decision and Order effective November 17, 1993. The Decision and Order in case No. AC-92-36 placed respondent's license on probation subject to specific terms and conditions. Effective May 27, 1995, in Case No. D1-92-36, respondent's license (No. 56833) was revoked for probation violations.

4. Respondent submitted a Petition for Reinstatement of his license to the Board which was approved by the Board in its Decision and Order No. SI-97-40-1, effective June 19, 1997. Respondent was placed on probation for a three-year period effective June 19, 1997, with terms and conditions, including but not limited to the following:

(¶ 2A) Respondent shall obey all federal, state and local laws, and all rules relating to the practice of public accountancy in the State of California.

Respondent's reinstated certificate is currently in full force and effect, subject to the probationary requirements which extend to June 19, 2000, through January 31, 2002.

#### **STATUTES, REGULATIONS, AND PROFESSIONAL STANDARDS**

5. California Business and Professions Code (hereafter "Code") Section 5100 provides that the Board may revoke, suspend or refuse to renew any permit or certificate issued by the Board, or may censure the holder of any such permit or certificate for unprofessional conduct, which includes, but is not limited to:

(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(f) Willful violation of the Accountancy Act or any rule or regulation promulgated by the Board.

6. Code Section 5062 provides that a licensee shall issue a report which conforms to professional standards upon completion of a compilation, review, or audit of financial statements.

7. California Code of Regulations (hereafter "CCR"), Title 16, Section 58 provides that licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards.

8. Code Section 5107 provides that the executive officer of the Board may request the administrative law judge to direct a respondent found guilty of unprofessional conduct in violation of Code section 5100(c) to pay to the Board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.
9. Applicable standards include, without limitation, Statement on Auditing Standards ("SAS") codified by the American Institute of Certified Public Accountants (AICPA). The statements are codified by AU number. The sections pertinent herein include, without limitation: AU § 150; AU § 311; AU § 319; AU § 330; AU § 333; AU § 339; AU § 560; and AU § 801.
- Standards applicable to the performance of a review engagement are codified by the AICPA as Statements on Standards for Accounting and Review Services ("SSARS"). The statements are codified by AR number. Additional audit and reporting standards relating to financial statement audits under OMB Circular A-133 are contained in the Government Auditing Standards ("GAS") (1994 Revision) issued by the U.S. General Accounting Office.

#### **PETITION TO REVOKE PROBATION**

10. Grounds exist to revoke respondent's probation in that Respondent in violation of the terms of probation failed to obey all laws and regulations relating to the practice of public accountancy as described under the Accusation section below.

#### **ACCUSATION**

11. Respondent is subject to disciplinary action under Code section 5100(c) in that he was grossly negligent in his audits of Yolo Basin Foundation for the year ended September 30, 1999, and Yolo County Flood Control & Water District for the year ended April 30, 1999. Both audits contained material deficiencies which constitute extreme departures from applicable standards, as follows:

##### **Audit of Yolo Basin Foundation**

- a. The work papers do not include evidence that the audit was properly planned (Reference AU § 150.02; AU § 311.03; and AU § 339.05).

- 1           b.     The work papers do not include evidence that respondent made a proper  
2                     evaluation of the internal control structure or made a conclusion regarding  
3                     control risk (AU § 150.02; AU § 319.02; AU § 319.44; AU § 319.47; and AU  
4                     § 10 319.57).
- 5           c.     The work papers do not include evidence that respondent used audit programs  
6                     to ensure that all audit procedures were performed to accomplish the audit  
7                     objectives (AU § 311.05).
- 8           d.     The work papers do not include documentation that the audit tests were in fact  
9                     performed (AU § 150.02; AU § 339.01; and AU § 339.05).
- 10          e.     There is no evidence in the work papers that the auditor performed a search  
11                     for unrecorded liabilities (AU § 560.10-12).

12           **Audit of Yolo County Flood Control & Water Conservation District**

- 13          f.     The work papers do not include evidence that the audit was properly planned  
14                     (Reference AU § 150.02; AU § 311.03; and AU § 339.05).
- 15          g.     The work papers do not include evidence that respondent made a sufficient  
16                     evaluation of the internal control structure or made a conclusion regarding  
17                     control risk (AU § 150.02; AU § 319.02; AU § 319.44; AU § 319.47; and AU  
18                     § 319.57).
- 19          h.     There is no documentation in the work papers that the respondent performed  
20                     tests of compliance with laws and regulations for each major federal program  
21                     (OMB Circular A-133, paragraph 12b(3); AU § 801.10(d); and GAS (1994  
22                     Revision 4.34-.35).
- 23          i.     The work papers do not include documentation that the audit tests were in fact  
24                     performed (AU § 150.02; AU § 339.01; and AU § 339.05).
- 25          j.     There is no evidence that the respondent confirmed accounts receivable  
26                     (AU § 330.04 and AU § 330.35).
- 27          k.     Respondent has not had an external quality review that is required by GAS  
28                     (GAS, paragraph 3.31).

- 1           1.     Respondent issued a Report on Supplementary Schedule of Federal  
2                   Assistance; however, the required supplementary schedule was not presented  
3                   (OMB Circular A-133, paragraph 15c(1)).
- 4   12.   Incorporating by reference the matters alleged in paragraph 11, subsections a-1, cause for  
5           discipline exists because respondent was grossly negligent in violation of Section 5100(c)  
6           in that the deficiencies constitute an extreme departure from applicable standards.
- 7   13.   Incorporating by reference the matters alleged in paragraph 11, subsection 1, cause for  
8           discipline exists because respondent failed to comply with professional standards in  
9           violation of Code Section 5062 and 5100(f) in conjunction with CCR Section 58, in that  
10          respondent issued an audit report without the required supplementary schedule.
- 11   14.   Respondent is further subject to disciplinary action under Code section 5100(c) in that he  
12          was grossly negligent in his review engagement of Desert Winds Entertainment  
13          Corporation for the nine months ended September 30, 1999. This review engagement  
14          contained material deficiencies which constitute extreme departures from applicable  
15          standards, as follows:

16                           **Review of Desert Winds Entertainment Corporation**

- 17          a.     There is no evidence in the work papers that the respondent performed inquiry and  
18                  analytical procedures required in a SSARS review engagement  
19                  (AR § 100.24).
- 20          b.     Respondent failed to obtain a management representation letter as required in  
21                  a SSARS review engagement (AR § 100.32).
- 22          c.     Each page of the financial statements did not include a reference such as "See  
23                  Accountant's Review Report" (AR § 100.34)
- 24   15.   Incorporating by reference the matters alleged in paragraphs 14, subsections a-c, cause for  
25           discipline exists because respondent was grossly negligent in violation of Section 5100(c)  
26           in that the deficiencies constitute an extreme departure from applicable standards.
- 27   16.   Incorporating by reference the matters alleged in paragraph 14, subsection c, cause for  
28           discipline exists because Respondent failed to comply with professional standards in

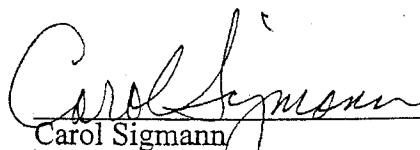
1 violation of Code Section 5062 and 5100(f) in conjunction with CCR Section 58, in that  
2 respondent failed to issue a report which conforms to professional standards upon  
3 completion of a compilation, review, or audit of financial statements.

4 **PRAYER**

5 Wherefore, complainant requests that the Board hold a hearing on the matters  
6 alleged herein, and that following said hearing, the Board issue a decision:

- 7 1. Revoking, suspending, or otherwise imposing discipline on Certified Public Accountant  
8 Certificate No. 56833 heretofore issued to respondent Ronald Paul Konkle;  
9 2. Revoking probation or reimposing the order revoking Certified Public Accountant  
10 Certificate No. 56833 heretofore issued to respondent Ronald Paul Konkle;  
11 3. Ordering respondent Ronald Paul Konkle to reimburse the Board for its costs of  
12 investigation and prosecution of this matter pursuant to California Business and  
13 Professions Code Section 5107;  
14 4. Taking such other and further action as may be deemed proper and appropriate.

15  
16 DATED: June 1, 2000

17  
18   
19 Carol Sigmann  
Executive Officer  
Board of Accountancy

20  
21 Complainant  
22  
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26  
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BEFORE THE  
BOARD OF ACCOUNTANCY  
STATE OF CALIFORNIA

In the Matter of the Petition for )  
Reinstatement of: )

RONALD KONKLE )  
6963 Mills Lane )  
Vacaville, CA 95688 )

Petitioner. )

OAH No. N 9704161

DECISION

The Board of Accountancy of the State of California heard this matter on May 9, 1997, at San Francisco, California. Stewart A. Judson, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Michael R. Granen, Deputy Attorney General, represented the Attorney General of the State of California.

Phil Horowitz, Esq. represented the petitioner.

FINDINGS OF FACT

I

The Board of Accountancy (the Board) issued certificate No. 10600 to Ronald Paul Konkle (petitioner) on December 7, 1963. This certificate expired February 1, 1984, and was canceled under Business and Professions Code section 5070.7 (Failure to Renew Within Five Years of Expiration).

The Board issued certificate No. 56833 to petitioner on September 7, 1990. This certificate expired February 1, 1994, for failure to pay the renewal fee and failure to provide evidence of compliance with continuing education requirements.

Petitioner's certificate No. 56833 was revoked pursuant to a stipulation entered into by petitioner and the Board effective November 17, 1993, for violations of Business and Professions Code section 5100(f) in conjunction with sections 5050 and 5055 (Designating Oneself as a CPA Without a

Valid License). The revocation was stayed, and petitioner was placed on probation for three years subject to certain conditions.

Effective May 27, 1995, the Board revoked petitioner's certificate for violating the terms of his probation. Specifically, petitioner did not comply with quarterly reporting requirements and scheduled reimbursement payments to the Board. In addition, he admitted acting in the capacity of a CPA between February and May 1994 when his certificate was expired.

### III

Petitioner filed a petition dated January 21, 1997, for reinstatement of his revoked certificate.

### IV

Before the revocation of his certificate in 1995, petitioner worked as a sole practitioner from 1980 to 1992. Since 1995, he was general managing partner of a wood recycling business for one year and has worked part time as an office manager for a truck and tractor business posting accounts payable and general ledger entries in a computerized bookkeeping program, preparing accounts receivables and collections, issuing internal reports and managing special projects.

### V

Petitioner expressed contrition for his past mistakes. In 1993, petitioner sold his accounting business. The purchaser has purportedly breached the contract by discontinuing required monthly payments. Petitioner seeks reinstatement to earn a living for himself and his wife. If reinstated, he intends to practice in Vacaville doing accounting and tax preparation for small businesses.

### VI

The evidence shows that, up to the past two months, petitioner is listed in the Vacaville Yellow Pages as a CPA. Petitioner explains this oversight noting that the listing was complimentary and conceding he should have notified the publisher to cancel the listing after his certificate was revoked. Petitioner avows he immediately so notified the publisher when the matter was brought to his attention in last April.

## DETERMINATION OF ISSUES

### I

While the Board recognizes that the "mistakes" which resulted in the revocation of petitioner's certificate did not directly affect the public safety, it has difficulty in understanding how one with petitioner's long experience in the profession failed to exercise the required discipline in complying with his conditions of probation.

### II

The Board recognizes that petitioner's certificate was revoked outright for two years. Given the nature of the violations and the discipline imposed, the Board accepts that petitioner currently can reenter the profession with safety to the public but only under certain conditions.

### ORDER

The petition of Ronald P. Konkle for reinstatement of his revoked certificate is granted as follows:

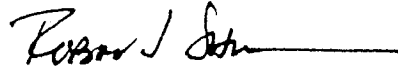
1. The certificate is reinstated in a stayed revocation state.
2. Petitioner shall be on probation for three (3) years under the following conditions:
  - A. Petitioner shall obey all federal, California and other states' and local laws including those rules relating to the practice of public accountancy in California.
  - B. Petitioner shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. Petitioner shall submit, under penalty of perjury, such other written reports, declarations and verifications of actions as are required. These declarations shall contain statements relative to petitioner's compliance with all the terms and conditions of probation. Petitioner shall immediately execute all release of information as may be required by the Board or its representatives.

- C. Petitioner shall, during the period of probation, appear in person at interviews/ meetings as directed by the Board or its designated representatives provided such notification is accomplished in a timely manner.
- D. Petitioner shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board in its monitoring and investigation of petitioner's compliance with probation terms and conditions.
- E. In the event petitioner should leave California to reside or practice outside this state, petitioner must notify the Board, in writing, of the dates of departure and return. Periods of non-California residency or practice shall not apply to reduction of the probationary period. No obligation imposed herein, including requirements to file written reports, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.
- F. If petitioner violates probation in any respect, the Board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the discipline that was stayed. If an accusation or petition to revoke probation is filed against petitioner during probation, the Board shall have continuing jurisdiction until said matter is final, and the period of this probation shall be extended until said matter is final.
- G. Petitioner shall complete professional education courses as specified by the Board or its designee. The professional education courses shall be completed within a period of time designated and specified in writing by the Board or its designee. The time frame shall be incorporated as a condition of this probation. This shall not be in addition to continuing education requirements for relicensing. Petitioner shall submit to the Board verification of completion from the provider.

Failure to complete satisfactorily the required courses as scheduled or failure to complete the same no later than one hundred (100) days prior to the termination of probation shall constitute a violation of probation.

- H. Upon successful completion of probation, petitioner's license will be fully restored.

DATED: June 18, 1997



ROBERT J. SHACKLETON  
President

BEFORE THE  
BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to )  
Vacate Stay of Revocation and to )  
Revoke Probation of: )

RONALD PAUL KONKLE )  
6963 Mills Lane )  
Vacaville, CA 95688 )

Certificate Public Accountant )  
No. 10600, )

Respondent. )  
\_\_\_\_\_ )

Case No. D1-92-36

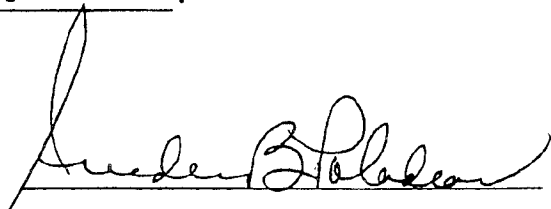
OAH No. N 9407161

DECISION

The attached Proposed Decision of the Administrative Law  
Judge is hereby adopted by the Board of Accountancy as its  
Decision in the above-entitled matter.

This Decision shall become effective on May 27, 1995.

IT IS SO ORDERED April 27, 1995.



BEFORE THE  
BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to	)	
Vacate Stay of Revocation and to	)	
Revoke Probation of:	)	
	)	Case No. D1-92-36
RONALD PAUL KONKLE	)	
6963 Mills Lane	)	OAH No. N 9407161
Vacaville, CA 95688	)	
	)	
Certificate Public Accountant	)	
No. 10600,	)	
	)	
Respondent.	)	
	)	

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PROPOSED DECISION

Stewart A. Judson, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on January 30, 1995, at Berkeley, California.

Jeanne C. Werner, Deputy Attorney General, represented the complainant.

Ronald Paul Konkle represented himself.

FINDINGS OF FACT

I

Carol Sigmann made the statement of issues in her official capacity as the Executive Secretary of the California State Board of Accountancy.

II

The Board of Accountancy (the Board) issued certificate No. 10600 on December 7, 1963, to Ronald Paul Konkle (respondent) authorizing him to practice as a certified public accountant in the State of California. This certificate expired February 1, 1984 and was canceled under Business and Professions Code section 5070.7 (Failure to Renew Within Five Years of Expiration).

The Board issued certificate No. 56833 to respondent on September 7, 1990. This certificate expired February 1, 1994 for failure to pay the renewal fee and failure to provide evidence of compliance with continuing education requirements.

In its decision effective November 17, 1993, pursuant to a stipulation entered into by respondent and the Board, respondent's certificate was revoked for violations of Business and Professions Code section 5100(f) in conjunction with Sections 5050 and 5055 (Designating Oneself as a CPA Without a Valid License). The revocation was stayed, and respondent was admitted to three years probation. Conditions of probation included, inter alia, a thirty day actual suspension, submission of quarterly reports<sup>1</sup> and payment of \$3,000 to the Board in three installments<sup>2</sup>.

Respondent renewed his license in May 1994. The parties stipulate that respondent's license has been renewed through January 31, 1996.

### III

By letter dated October 18, 1993, the Board's Executive Officer notified respondent by letter of the Board's decision and effective date thereof. The conditions of probation were explained. Attached were sufficient reporting forms. Each form had printed in the upper right hand corner the period covered by the report. Respondent was informed that each report was due within ten days following the end of each calendar quarter.

In addition, the letter informed respondent of the first date of payment of costs. Each payment was in the amount of \$1,000 for a total of \$3,000. Each was due on December 17 of 1993, 1994 and 1995.

### IV

As of January 18, 1995, respondent's file contained one quarterly report for the period January 1, 1994 to March 31, 1994. This report is dated April 8, 1994, and was received April 14, 1994.

### V

As of January 12, 1995, respondent had not submitted to the Board his first or second payments for the Board's

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<sup>1</sup> The first was due January 10, 1994.

<sup>2</sup> This amount represented the Board's costs for investigation and prosecution. The first installment was due December 17, 1993.



costs. On January 13, 1995, respondent delivered a \$1,000 check to the Board along with a quarterly report for the period October 1, 1994 to December 31, 1994. That report is dated January 5, 1995. Neither of these items was placed into respondent's file as of January 18.

In addition to said items, respondent included copies of quarterly reports for the periods January 1, 1994 to March 31, 1994 dated April 10, 1994; April 1, 1994 to June 30, 1994 dated July 4, 1994; and July 1, 1994 to September 30, 1994 dated October 10, 1994.

On January 19, 1995, respondent delivered to the Board a second check for \$1,000.

## VI

Save the report for the period October 1, 1994 to December 31, 1994, each of the reports delivered to the Board on January 13, 1995, is a photo copy of an original. Respondent asserts he timely sent the originals to the Board and included the copies on January 13 simply to bring the Board up to date.

A comparison of the original of the January 1, 1994 to March 31, 1994 report with the copy provided by respondent on January 13, 1995, shows several discrepancies. Each was signed under penalty of perjury. The date of the original is April 8, 1994. The copy is dated April 10, 1994. The date of the "time period covered" in the upper right hand corner on the original is in a different hand than on the copy. As found above, those dates are placed on the document by a Board support person before sent to respondent. The entry in item No. 4 on the original differs from the entry on the copy. The entry in item No. 5(c) on the original differs from that on the copy. The entry in item No. 6 on the original differs from that on the copy.

Respondent explains when he prepared the copies for delivery on January 13, 1995, he discovered he had not kept a copy of the January 1, 1994 to March 31, 1994 report. He simply completed a new one from memory and signed it. He could not recall what he had entered on the original report. He concedes he signed the document under penalty of perjury without knowing if the information contained thereon was a true and correct copy of what he had already delivered to the Board.

## VII

Each of the deliveries to the Board made by respondent on January 13, 1995 and January 19, 1995 was accompanied by a letter with respondent's letterhead stating

he is a certified public accountant. Each was signed by respondent.

#### VIII

Respondent signed the stipulated settlement which resulted in his discipline on August 30, 1993. He believed his actual suspension was to start immediately thereafter. He closed his business for thirty days only to learn that the Board's decision did not become effective until November of that year. He began the Board's official suspension thereafter.

His first quarterly report for the period November 17, 1993 to December 31, 1993 was due January 10, 1994. Although the copy he delivered to the Board on January 13, 1995 bears a date of January 10, 1994, the original was not in his file.

Respondent explains his failure to timely reimburse the Board for its costs due to his lack of funds. He avers he contacted the Board's enforcement chief sometime after the due date in December 1993 to ask for more time. He claims he was told he could have been given more time had he called before the due date and explained his situation. In fact, by letter dated January 20, 1994, respondent was informed he was tardy with the first payment and would be given until February 10, 1994, to make payment. Nonetheless, respondent was also tardy with his second payment. He did not contact the enforcement chief before the 1994 due date to ask for additional time. He was unable to explain why he did not do so.

#### IX

Respondent avers his attorney informed him he was seeking to arrange a different payment schedule than that agreed to by respondent in his stipulated settlement. That condition is clear and unambiguous. No other agreement was reached. Respondent's then attorney was not called as a witness nor was any evidence, other than respondent's testimony, offered to corroborate respondent's claim.

#### X

After the effective date of the Board's decision, respondent avers his practice consisted of litigation services only. He offers his services as an expert on the calculation of wage and fringe benefit losses in litigation. He avers he sold the tax accounting portion of his business and has a five year non-competition clause barring him from practicing within 100 miles of Vacaville or providing services to his former

clients until January 1998. He also does some tax returns for his family. He signs the returns as a certified public accountant.

#### XI

Respondent admits to acting in the capacity of a certified public accountant while his license was expired after February 1994 until he renewed it in May 1994. His explanation is the same he offered when previously disciplined for the same conduct. He could not afford the \$300 renewal fee.

#### XII

In October 1993, respondent started up a wood recovery business in partnership with his son. In 1994, this business grossed \$300,000. He estimates the business lost \$17,000. His billings last year for litigation services amounted to \$10,000.

Respondent is married. His four children are grown and living on their own. His wife is not employed.

### DETERMINATION OF ISSUES

#### I

Respondent's explanations about his quarterly reports and failure to reimburse the Board in a timely manner are not persuasive. His credibility was impeached over the copies of the quarterly reports. Indeed, he admits to signing one under penalty of perjury without knowing if it was accurate. It is clear he was tardy in complying with the reimbursement condition of probation. The evidence also shows he held himself out as a certified public accountant while his certificate was expired. Though this latter was not charged, it serves to demonstrate his lack of responsibility and trustworthiness.

#### II

The evidence showed respondent failed to file required quarterly reports in a timely manner, that he did not make timely payments for reimbursement of costs and that he attempted to mask these violations of probation by deceit and falsehoods.


#### III

Cause for vacating the stay of revocation and for revoking probation exists.

ORDER

The stay of revocation of certified public accountant certificate No. 56833 of Ronald Paul Konkle, heretofore ordered by the Board in Case No. AC-92-36, is vacated. The order of revocation imposed against said license is reimposed. Probation is revoked.

DATED: February 7, 1995

  
STEWART A. JUDSON  
Administrative Law Judge  
Office of Administrative Hearings

1 DANIEL E. LUNGREN, Attorney General  
of the State of California  
2 JOHN E. BARSELL, JR.  
Deputy Attorney General  
3 1201 Webster Street, 12th Floor  
Mailing Address:  
4 455 Golden Gate Avenue, Suite 6000  
San Francisco, California 94102  
5 Telephone: (510) 286-4110

6 Attorneys for Complainant

7  
8 BEFORE THE  
BOARD OF ACCOUNTANCY  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the Accusation	)	No. AC-92-36
Against:	)	
12	)	
RONALD P. KONKLE, C.P.A.	)	STIPULATION IN SETTLEMENT
13 6963 Mills Lane	)	<u>AND ORDER</u>
Vacaville, CA 95688	)	
14	)	
Certificate No. CPA 56833	)	
15	)	
Respondent.	)	
16		

17  
18 IT IS HEREBY STIPULATED by and between Carol B.  
19 Sigmann, Executive Officer of the Board of Accountancy, by and  
20 through her attorney Daniel E. Lungren, Attorney General of the  
21 State of California, by Deputy Attorney General John E. Barsell,  
22 Jr., and respondent, Ronald P. Konkle by and through his attorney  
23 David C. Anton as follows:

24 1. Respondent Ronald P. Konkle (hereinafter  
25 "respondent") has received and read the accusation which is  
26 presently on file and pending in case number AC-92-36 before the  
27 //

1 Board of Accountancy of the State of California (hereinafter  
2 "Board").

3           2. Respondent has read and reviewed the accusation in  
4 case number AC-92-36 which is attached hereto as exhibit "A" and  
5 is incorporated by this reference and has discussed its contents  
6 with his counsel. Respondent understands the nature of the  
7 charges alleged against him in the accusation as constituting  
8 causes for imposing discipline upon his license.

9           3. Respondent is fully aware of his rights to a  
10 hearing of the charges and allegations contained in said  
11 accusation, his right to reconsideration, appeal, and to any and  
12 all other rights which may be accorded him pursuant to the  
13 California Administrative Procedure Act and Code of Civil  
14 Procedure and that respondent hereby freely and voluntarily  
15 waives his rights to a hearing, to reconsideration, to appeal,  
16 and to any and all other rights which may be accorded him by the  
17 California Administrative Act and Code of Civil Procedure with  
18 regard to said accusation in case number AC-92-36.

19           4. Respondent in a desire to resolve and comprise the  
20 matter and issues herein and for no other reason stipulates and  
21 admits that the allegations in case number AC-92-36 are true and  
22 correct.

23           5. Respondent stipulates and acknowledges that the  
24 Board has incurred substantial investigative and legal costs in  
25 this pending matter, in a sum in excess of \$3,000.00, which  
26 respondent agrees he will reimburse the Board in the amount of  
27 \$3,000.00, payable in three \$1000.00 annual installments.



1           (f) Respondent shall reimburse the Board for  
2 investigation and prosecution costs in the amount of \$3,000.00  
3 with the first \$1,000.00 payment payable within 30 days after the  
4 effective date of this order followed by a \$1,000.00 payment for  
5 two years on the same date.

6           (g) In the event respondent should leave California to  
7 reside or practice outside this state, respondent must notify the  
8 Board in writing of the dates of departure and return. Periods  
9 of residency or practice outside the state shall not apply to  
10 reduction of the probationary period.

11           (h) Respondent shall have completed a continuing  
12 professional educational course in ethics and shall notify the  
13 Board within six (6) months after the effective date of the  
14 Board's order.

15           (i) If respondent violates probation in any respect,  
16 the Board, after giving respondent notice and an opportunity to  
17 be heard, may revoke probation and carry-out the disciplinary  
18 order which was stayed. If an accusation or a petition to revoke  
19 probation is filed against respondent during probation, the Board  
20 shall have continuing jurisdiction until the matter is final, and  
21 the period of probation shall be extended until the matter is  
22 final.

23           (j) Respondent shall be subject to, and shall permit,  
24 a general review of the respondent's professional practice. Such  
25 review shall be conducted by representatives of the Board  
26 whenever designated by the Administrative Committee, provided  
27 notification of such review is accomplished in a timely manner.



1 (k) This stipulation shall be of no force and effect  
2 until adopted by the Board of Accountancy.

3 (l) Upon successfully completing the period of  
4 probation, respondent's certificate shall be fully restored.

5 (m) Respondent's license shall be suspended for 30  
6 days. The period of suspension shall began 10 days after the  
7 effective date of this order.

8 DATED: August 20, 1993

9 DANIEL E. LUNGREN, Attorney General  
10 of the State of California

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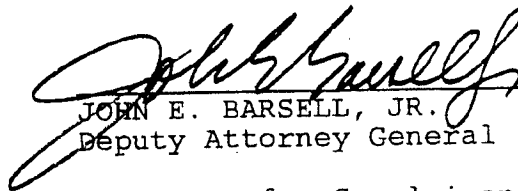
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JOHN E. BARSELL, JR.  
Deputy Attorney General

Attorneys for Complainant

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DATED: August 24, 1993

  
DAVID C. ANTON, Esq.

Attorney for Respondent

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DATED: August 30, 1993

  
RONALD P. KONKLE, Respondent

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DATED: October 18, 1993

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1 DANIEL E. LUNGREN, Attorney General  
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10 Telephone: (510) 464-4110

BEFORE THE BOARD OF ACCOUNTANCY

STATE OF CALIFORNIA

10 In the Matter of the	)	No. AC-92-36
11 Accusation Against	)	
12 RONALD P. KONKLE C.P.A.	)	<u>ACCUSATION</u>
13 6963 Mills Lane	)	
14 Vacaville, CA 95688	)	
15 Certificate No. CPA 56833	)	
Respondent.	)	

Carol B. Sigmann charges and alleges:

1. She is the Executive Officer of the California Board of Accountancy and makes these charges and allegations in her official capacity.

2. On December 7, 1963, respondent, Ronald P. Konkle was issued Certificate No. 10600 (Certified Public Accountant) by the State Board of Accountancy. Said certificate expired on February 1, 1984, and was cancelled on February 1, 1989, pursuant to Business and Professions Code section 5070.7.

3. On September 7, 1990, respondent was issued Certificate No. CPA 56833 (Certified Public Accountant) by the

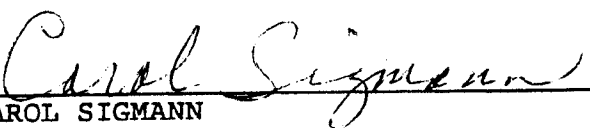
1 State Board of Accountancy. Said certificate is currently in  
2 full force and effect and will expire subject to renewal on  
3 February 1, 1994.

4 4. Grounds exists for disciplinary action against  
5 respondent's certificate as a Certified Public Accountant  
6 pursuant to Business and Professions Code sections 5100(f) in  
7 conjunction with sections 5050 and 5055 in that between February  
8 1, 1984 and September 7, 1990, respondent practiced public  
9 accountancy without a license.

10 5. Pursuant to Business and Professions Code section  
11 5107 it is requested that the proposed decision in this  
12 proceeding include an order directing respondent to pay to the  
13 Board all reasonable costs of investigation and prosecution of  
14 the case including but not limited to attorney's fees.

15 THEREFORE, it is requested that upon proof of the  
16 matters alleged herein that respondent's certificate as a  
17 Certified Public Accountant be revoked and that the Board take  
18 such other action as may be deemed proper.

19 DATED: July 30, 1992

20   
21 CAROL SIGMANN  
22 Executive Officer  
23 Board of Accountancy  
24 Department of Consumer Affairs  
25 State of California

26 Complainant

27 03541110SF92AD0750